

REMARKS

Claims 1-10 are pending in the application. The status of these claims is as follows:

Claims / Section	35 U.S.C. Sec.	References / Notes
8	Allowable	<ul style="list-style-type: none">• Depends from rejected base claim.
1-7, 9 & 10	§102(b) Anticipation	<ul style="list-style-type: none">• Alexandrescu (U.S. Patent No. 5,909,497).

5 Applicants thank the Examiner for indicating the allowable subject matter of claim 8. Applicants have amended claim 8 to put it in independent format and provided discussion for distinguishing the present invention over the prior art cited by the Examiner. Applicants have further added claims 11 and 12 for consideration by the Examiner.

10 Applicants' use of reference characters below is for illustrative purposes only and is not intended to be limiting in nature unless explicitly indicated.

REQUEST FOR FULLY INITIALED PTO-1449 FORM

1. Applicants request that the PTO-1449 form signed by the Examiner on 3/20/2005 be resent that includes initials by reference AT.

15 Applicants thank the Examiner for providing an initialed PTO-1449 form attached to the Office Action. However, upon further review, Applicants note that initials next to reference AT have not been provided. Applicants presume this to be an oversight, since no basis for its non-inclusion was provided in the Office Action and therefore request that a new initialed form be provided with the next
20 Office Action. In the event that this reference was deliberately omitted from

consideration, Applicant respectfully request that the Examiner contact the below-signed representative to clarify any problems prior to the next Office Action.

35 U.S.C. §102(b), CLAIMS 1-7, 9 & 10 ANTICIPATION BY ALEXANDRESCU

- 5 2. *Alexandrescu fails to teach or suggest the detection of a signal output by the screen device and adaptation to a different auditory situation dependent on the signal. Alexandrescu, rather, teaches detection of information encoded into the signal and adaptation therefrom.*

 The present invention concerns a hearing device which can be adapted to
10 different auditory situations via various auditory programs. The hearing device accomplishes this by reliably and automatically recognizing the auditory situation "television" or "screen device" and reliably, automatically switching into the corresponding auditory program in this auditory situation. Accordingly, one of the signals emitted by the screen device, which actually represents an
15 electromagnetic interference signal, is detected by the appertaining hearing device, and from this the proximity to an activated screen device can be reliably determined.

 In the OA, on p. 2, the Examiner stated that Alexandrescu teaches, among other things:

- 20 a detector (col. 8 lines 5-18) for detecting a signal output by a screen device (col. 8 lines 5-8); a signal processing unit (5) configured to process and amplify the electrical signal, the signal processing unit being adaptable to different auditory situation[s] by at least
25 one adjustable parameter (col. 8 lines 10-18) that can be automatically adjusted dependent on the signal;...

Applicants respectfully traverse this rejection on the grounds that Alexandrescu does not teach the detection of a signal output by the screen device, and adjustment of the hearing device that is dependent upon the signal, but rather teaches the detection of information that has been encoded into the
5 signal, and the adjustment that takes place is dependent upon this encoded information, and not the signal itself.

Alexandrescu states, in pertinent part (8/5-18):

10 Another manner of programming the hearing instrument according to the invention would be to use a television signal, particularly one that is used for closed-captioning of television broadcasts. In this manner, the appropriate parameters or program for a television broadcast would be encoded into the television signal. Thus, for example, if the particular
15 broadcast includes a loud noise, such as an explosion, the television signal includes, shortly before the explosion, program codes to modify the response parameters of the hearing instrument for this loud noise. Thus, the program codes are
20 appropriately decoded to form part of the audio or electromagnetic signal for the hearing instrument and the hearing instrument is appropriately programmed for the upcoming loud noise, so as to minimize the discomfort a user may feel.

25 The fact that the device of Alexandrescu operates upon information that has been expressly encoded for the device is not a trivial distinction.

Alexandrescu deals with adjusting a hearing device in a particular manner to an acoustic signal emitted by a television. This is achieved in that additional
30 information that can be used for the adjustment of hearing devices is added to a television signal transmitted from a television emitter to the television. For example, Alexandrescu teaches that information is encoded into the television

signal that indicates an explosion follows. The hearing device can then be pre-adjusted corresponding to this event. This procedure entails an enormous effort to embed and encode the required information. All films or transmissions would have to be checked for the purpose of determining whether critical acoustic
5 situations for the hearing device user arise so that, in such cases, a type of “advance warning” for the hearing devices can be emitted. Both the television and the hearing device industry would have to agree on corresponding transmission standards so that a large number of users could make use of the specified possibility.

- 10 Furthermore, Alexandrescu assumes that the hearing device user with his hearing device is already located in front of the activated television and the hearing device is already operated in a corresponding mode to receive the encoded signals. Only in this case does it make sense when the corresponding hearing device makes use of the auxiliary function specified in Alexandrescu.
- 15 How the appertaining hearing device arrives at the “television” mode in Alexandrescu (manually or automatically) remains completely undisclosed in Alexandrescu. Alexandrescu presumes the very presence of the thing that the present invention seeks to detect.

- Applicants have added claims 11 and 12 for consideration by the
20 Examiner that further clarify this distinction.

For these reasons, Applicants assert that the claim language clearly distinguishes over the prior art, and respectfully request that the Examiner withdraw the §102(b) rejection from the present application.

CONCLUSION

Inasmuch as each of the objections have been overcome by the amendments, and all of the Examiner's suggestions and requirements have been satisfied, it is respectfully requested that the present application be reconsidered, the rejections be withdrawn and that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

 (Reg. No. 45,877)

Mark Bergner
SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 Sears Tower
Chicago, Illinois 60606-6473
(312) 258-5779
Attorney for Applicants
Customer Number 26574

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on June 27, 2005.

